



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2011-0347; FRL-9662-9]

**Approval and Promulgation of Air Quality Implementation Plans;
Wisconsin; Milwaukee-Racine Nonattainment Area; Determination of
Attainment for the 2006 24-Hour Fine Particle Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the Milwaukee-Racine, Wisconsin area has attained the 2006 24-hour fine particle (PM_{2.5}) National Ambient Air Quality Standard (NAAQS). This proposed determination is based upon quality-assured, quality controlled, and certified ambient air monitoring data, from the 2008-2010 monitoring period, supplemented by statistical analysis of these data, showing that the area has monitored attainment of the 2006 24-hour PM_{2.5} NAAQS. Data available to date for 2011 are consistent with continued attainment. On March 7, 2011, the Wisconsin Department of Natural Resources (WDNR) requested that EPA approve its request for a determination that the Milwaukee-Racine area has attained the standard. If EPA finalizes this proposed determination, the requirement for the State of Wisconsin to submit an attainment demonstration, associated reasonably available control measures (RACM) to include reasonably available control technology

(RACT), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the standard shall be suspended for so long as the area continues to attain the 2006 24-hour PM_{2.5} NAAQS.

DATES: Comments must be received on or before **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2011-0347, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: aburano.douglas@epa.gov.
3. Fax: (312)408-2279.
4. Mail: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for

deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2011-3047. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to

technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the SUPPLEMENTARY INFORMATION section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Gilberto Alvarez, Environmental Scientist, at (312) 886-6143 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Gilberto Alvarez,
Environmental Scientist, Attainment Planning and Maintenance
Section, Air Programs Branch (AR-18J), Environmental Protection

Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6143, alvarez.gilberto@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Action is EPA Taking?
- II. What is the Background for This Action?
- III. What is EPA's Analysis of the Relevant Air Quality Data?
- IV. How Did EPA Address Missing Data?
- V. Proposed Action.
- VI. What is the Effect of This Action?
- VII. Statutory and Executive Order Reviews.

I. What Action is EPA Taking?

EPA is proposing to determine that the Milwaukee-Racine area has attained the 2006 24-hour PM_{2.5} NAAQS. This proposed determination is based upon quality-assured, quality controlled, and certified ambient air monitoring data, from the 2008-2010 monitoring period, supplemented by an analysis of whether two sites that were shut down at the end of 2009 would likely have shown attainment had they continued operating. Data in the EPA Air Quality System database available for 2011 are consistent with continued attainment.

II. What is the Background for This Action?

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $\text{PM}_{2.5}$ NAAQS at $15.0 \mu\text{g}/\text{m}^3$ based on a three-year average of annual mean $\text{PM}_{2.5}$ concentrations, and promulgated a 24-hour standard of $35 \mu\text{g}/\text{m}^3$ based on a three-year average of the 98th percentile of 24-hour concentrations. On November 13, 2009, EPA designated the Milwaukee-Racine area as nonattainment for the 2006 24-hour standard (74 FR 58688). On April 25, 2007 (72 FR 20664), EPA promulgated its $\text{PM}_{2.5}$ implementation rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the 1997 $\text{PM}_{2.5}$ standards. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory consequences of a determination that an area has attained the $\text{PM}_{2.5}$ standards. While 40 CFR 51.1004(c) was promulgated as part of a set of regulations addressing $\text{PM}_{2.5}$ NAAQS promulgated in 1997, EPA believes that the same approach is warranted with respect to the $\text{PM}_{2.5}$ NAAQS promulgated in 2006.

EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposure to particulate matter. The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the Clean Air Act (CAA). EPA and state air quality agencies initiated the

monitoring process for the PM_{2.5} NAAQS in 1999 and began operating a full set of air quality monitors by January 2001.

On November 13, 2009, EPA published its air quality designations and classifications for the 2006 24-hour PM_{2.5} NAAQS based upon air quality monitoring data from those monitors for calendar years 2006-2008 (74 FR 58688). Those designations became effective on December 14, 2009. The Milwaukee-Racine area was designated nonattainment for the 2006 24-hour PM_{2.5} NAAQS (see 40 CFR Part 81). On March 7, 2011, the WDNR requested that EPA approve its request for a determination that the area has attained the standard, based upon data from the 2008-2010 monitoring period.

III. What is EPA's Analysis of the Relevant Air Quality Data?

Today's proposed rulemaking assesses whether the Milwaukee-Racine PM_{2.5} nonattainment area is attaining the 2006 24-hour PM_{2.5} NAAQS, based on the most recent three years of quality-assured data. The area is defined at 40 CFR 81.350, and comprises Milwaukee, Racine and Waukesha Counties.

Under EPA regulations at 40 CFR 50.7, 24-hour primary and secondary PM_{2.5} standards are met when the 98th percentile 24-hour concentrations, as determined in accordance with Appendix N of this part, is less than or equal to 35 µg/m³.

Milwaukee Racine Air Quality

EPA has reviewed the ambient air monitoring data for the Milwaukee-Racine area in accordance with the provisions of 40 CFR Part 50, Appendix N. All data considered have been quality-assured, certified, and recorded in EPA's Air Quality System database. This review addresses air quality data collected in the three-year period from 2008 to 2010, as well as additional data representing three of four quarters in 2011.

The following table provides the design values (the metrics calculated in accordance with 40 CFR Part 50, Appendix N, for determining compliance with the NAAQS) for the 2006 24-hour $PM_{2.5}$ NAAQS for the Milwaukee-Racine nonattainment monitors with data for the years 2008-2010.

Table 1: Milwaukee-Racine Area 24-Hour $PM_{2.5}$ 98th Percentile Concentrations and Design Values from 2008-2010 (in $\mu g/m^3$)

Site Name	Site Number	24-Hour 98 th -ile FRM $PM_{2.5}$ Concentration			Resulting Design Value*
		2008	2009	2010	
Milw-DNR SERHQ	550790026	27.5	39.0	31.9	33
Waukesha	551330027	29.9	32.0	35.9	33
Milw-16 th CHC	550790010	27.3	39.1	30.9	32
Milw-FAA/College Ave.	550790058	26.9	33.0	35.3	31
Virginia Street	550790043	27.4	41.7	**	35
Wells Street	550790099	29.0	40.3	**	35

* Design Values were developed in accordance with 40 CFR Part 50 Appendix N; FRM - Federal

Reference Method

** Indicates incomplete data due to monitor shut down.

IV. How Did EPA Address Missing Data?

Appendix N of 40 CFR Part 50 sets forth data handling conventions and computations necessary for determining whether areas have met the $PM_{2.5}$ NAAQS, including requirements for data

completeness. A monitor meets data completeness requirements when at least 75 percent of the scheduled sampling days of each quarter have valid data. The use of less than complete data is subject to the approval of EPA, which may consider factors such as monitoring site closures/moves, monitoring diligence, and nearby concentrations in determining whether to use such data as set forth at 40 CFR Part 50, Appendix N, section 4.1(c).

As part of their annual monitoring network review and to save resources, WDNR discontinued two monitoring sites (Site Numbers 550790043 and 550790099) on December 31, 2009, resulting in incomplete data for those two sites for 2010. Data from Milwaukee area monitors are shown in Table 1. When Wisconsin requested to shut down two monitors, four of the six monitors within the Milwaukee-Racine area were violating the 2006 24-hour $PM_{2.5}$ NAAQS, including the two sites WDNR requested to shut down. In 2010, the remaining two violating sites in Milwaukee had data showing that they attained the 2006 24-hour $PM_{2.5}$ NAAQS for the 2008-2010 monitoring period. However, because the two sites which were shut down at the end of 2009 were also violating, EPA needed to determine if those two sites would likely have met the 2006 24-hour $PM_{2.5}$ NAAQS if they had continued operating. The approach summarized in this section, and further described in the Technical Support Document (TSD), may or may not be

appropriate for other areas with less than complete data. EPA will evaluate the appropriateness of this analytical approach for each area with less than complete data on a case-by-case basis. The analysis described below is similar to analyses conducted for other areas, such as the West Virginia/Kentucky/Ohio Huntington-Ashland Nonattainment Area, except that the analysis presented here is addressing the 24-hour $PM_{2.5}$ NAAQS as opposed to the annual $PM_{2.5}$ NAAQS (76 FR 27290).

Monitoring Network

EPA has determined that the 2006 $PM_{2.5}$ monitoring network for Milwaukee-Racine nonattainment area is adequate, even though two monitors have been shut down. The area currently has four monitoring locations. Under 40 CFR Part 58, Appendix D, a minimum of three monitors is required. While the area meets the minimum requirements, EPA and the State recognize that more monitors are often necessary to adequately characterize air quality. Therefore, EPA has requested that WDNR re-establish one monitor (Site Number 550790099). This monitor has been placed back into service as of January 2012. Nevertheless, EPA believes that sufficient data are currently available to determine whether the Milwaukee-Racine area is attaining the standard.

Methodology

In situations like those in Milwaukee, where there are missing or incomplete data due to monitor shutdown or other factors, EPA believes that it is often appropriate to use historical data along with statistical techniques to impute missing data, use those imputed data to estimate the three-year design value that would likely have occurred if complete data had been obtained, and thereby determine if the monitor in question would likely have met the NAAQS.

The statistical technique in this case required comparing the two monitoring sites with missing 2010 data against a comparison monitor which is in the general vicinity of the sites with missing data. The comparison monitor is usually the highest correlated site based on historical data. For this reason, the two sites which were shut down (Site Numbers 550790043 and 550790099) were compared with an active monitoring site (Site Number 550790026). These monitors are located within 3 miles and 2 miles, respectively, of the comparison monitor.

A review of historical data for the four monitors that were violating the 24-hour $PM_{2.5}$ NAAQS in the area shows that the 98th percentiles from the two discontinued monitors generally tracked the other two violating monitors well, in that all four sites had 98th percentiles that rose and fell with each other,

especially during the period from 2007 and continuing through 2009. If this pattern continued into 2010, there is a strong statistical likelihood, as discussed below, that the two discontinued monitors would have had 98th percentile values that would have been less than those seen in 2009. If 2010 were consistent with 2007 through 2009, the 98th percentile concentrations for the two missing monitors would be below the design value, which would have resulted in the two sites showing attainment.

As part of the analysis of the missing data, a set of statistical regression techniques were used to provide further information regarding the two discontinued monitors' attainment status. The method used to determine the design value for the two discontinued monitors involves establishing a statistical relationship between data for those two monitors (Site Numbers 550790043 and 550790099) and for the monitor which was best correlated with these monitors and remained in operation (in this analysis, Site Number 550790026). A regression equation was used to estimate values to fill in for the missing data from the discontinued monitors. This analysis provided a "best estimate" design value for the two sites without 2010 data.

The estimated design values were then analyzed using a bootstrapping statistical method, intended to assess the 2010

concentrations that would have been expected at the sites without 2010 monitoring data had there been random observed associations between the shutdown sites and the comparison site according to the pre-2010 data base. Bootstrapping involves the use of regression residuals and repeating the regression analysis 1,000 times. EPA accepts a monitor as meeting the standard when at least 90% of the bootstrapped design values meet the standard. After extensive statistical analysis, the percentage of bootstrapping results that met the 2006 24-hour $\text{PM}_{2.5}$ NAAQS of $35 \mu\text{g}/\text{m}^3$ were consistently at or above 90%.

Therefore, EPA proposes to conclude that both discontinued monitors would have attained the NAAQS, along with the two monitors which remained in operation. Data available to date for 2011 are consistent with continued attainment.

V. Proposed Action.

EPA is proposing to determine that the Milwaukee-Racine nonattainment area has attained the 2006 24-Hour $\text{PM}_{2.5}$ NAAQS. This proposed determination is based on the analysis presented in the previous section, and because the 2008-2010 design value at each monitor in the Milwaukee-Racine nonattainment area is at or less than the 2006 24-hour $\text{PM}_{2.5}$ NAAQS of $35 \mu\text{g}/\text{m}^3$. This review addresses air quality data collected in the three-year

period from 2008 to 2010, as well as additional data representing three of four quarters in 2011.

Pursuant to section 40 CFR 51.1004(c), applicable to the PM_{2.5} standards, if EPA finalizes this proposed determination, it will suspend the requirements for WDNR to submit for this area an attainment demonstration and associated RACM/RACT, RFP plan, contingency measures, and any other planning SIPs related to attainment of the 2006 24-Hour PM_{2.5} NAAQS for as long as the area continues to attain the 2006 24-Hour PM_{2.5} NAAQS.

VI. What is the Effect of this Action?

Pursuant to section 40 CFR 51.1004(c), if EPA finalizes this proposed determination for the Milwaukee-Racine nonattainment area, it would suspend the requirements for the State to submit an attainment demonstration and RACM (including RACT), RFP, contingency measures, and any other planning SIPs related to attainment of the 2006 24-Hour PM_{2.5} NAAQS, and continue until such time, if any, that EPA subsequently determines that the area has violated the 2006 24-Hour PM_{2.5} NAAQS. Furthermore, as described below, any such final determination would not be equivalent to the redesignation of the area to attainment based on the 2006 24-Hour PM_{2.5} NAAQS.

If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the Federal

Register, that the area has violated the 2006 24-hour PM_{2.5} NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.1004(c), would no longer exist for the pertinent area, and WDNR would have to address the relevant requirements for that area. EPA's proposed determination, that the air quality data show attainment of the 2006 24-hour PM_{2.5} NAAQS, is not equivalent to the redesignation of the area to attainment. This action would not constitute a redesignation to attainment under 107(d)(3) of the CAA, because EPA would not yet have an approved maintenance plan for the area as required under 175A of the CAA, nor would it have determined that the area has met the other requirements for redesignation. The designation status of the area would remain nonattainment for the 2006 24-hour PM_{2.5} NAAQS until such time as EPA approves all remaining requirements and determines that the area meets the CAA requirements for redesignation to attainment.

This action is limited to a determination that the Milwaukee-Racine area has attained the 2006 24-hour PM_{2.5} NAAQS. The 2006 PM_{2.5} NAAQS, which became effective on December 18, 2006 (71 FR 61144) are set forth at 40 CFR 50.13.

VII. Statutory and Executive Order Reviews.

This action proposes to make a determination of attainment based on air quality, and would, if finalized, result in the

suspension of certain Federal requirements, and it would not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, this proposed 2006 24-hour PM_{2.5} clean NAAQS data determination for the Milwaukee-Racine, Wisconsin area does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Particulate Matter, Intergovernmental relations, Reporting and
Record-keeping requirements.

Dated: April 9, 2012

Susan Hedman,
Regional Administrator, Region 5.

[FR Doc. 2012-9811 Filed 04/23/2012 at 8:45 am; Publication
Date: 04/24/2012]